

FREDERICK COUNTY PLANNING COMMISSION
MEETING OF MARCH 8, 2006
9:30 a.m.

Members Present: Alan Duke, Chair; Robert White, Vice Chair; Joe Brown, Secretary; Michael Cady; Commissioner Liaison; Fern Hines; Joan McIntyre; Denny Crum.

Staff Present: Mark Depo, Development Review Planning Director; Gary Hessong; Division of Permitting & Development Review Director; Michael Wilkins, Principal Planner; Justin Horman, Principal Planner; Kathy Mitchell, Deputy County Attorney; Michele Long, Recording Secretary

1. **MINUTES:**

Mr. Brown made a motion to approve the minutes from the February 8, 2006 Planning Commission meeting noting a minor typing correction on page 14. 2nd by Mr. White.

Yea 6 Nay 0 (Crum Abstained)

2. **PLANNING COMMISSION COMMENTS:**

Mr. Brown asked staff for any information regarding the Walkersville Region Plan Update to be provided to the Commission for review prior to the meeting. Mr. Hessong stated he would check with Mr. Soter on when this information would be available and would get back with the Commission.

3. **AGENCY COMMENTS:**

N/A

4. **PHASE II PLANS**

Villages of Urbana (Boxwood + Foreman) - Requesting Phase II (Land Use) Plan approval for 199 single family lots on 87 acres located along MD Rt. 355 (Boxwood) and a 0.6 acre Quasi-public use site located along Rt. 80 (Foreman) adjacent to the Urbana community. Zoned: PUD, in the Urbana Planning Region. Tax Map 96/Parcels 210 & 153. File # S-1065; Hansen# 4175 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Boxwood: Staff finds that the Boxwood property portion of this application fails APFO for schools and, therefore, Staff cannot recommend Phase II approval.

However, since an APFO text amendment that may allow transfer of APFO school approvals from the original Urbana PUD to the Boxwood property is currently being considered by the BoCC, the Staff would not object to a continuation of the Boxwood property portion of this application for a reasonable period of time.

Foreman: As discussed above and pursuant to the recommended conditions below, the Foreman portion of this application meets or will meet the requirements of APFO, Subdivision, Zoning, and FRO Ordinances. Staff does not object to conditional approval of the Foreman property portion of this application.

If the FcPc approves the Foreman property portion of this application, the Staff recommends that the following conditions be added to the approval:

1. Comply with Fire Marshal comments.
2. Comply with miscellaneous drafting corrections.
3. Submit a Site plan for the .6-acre medical center for review and approval, which is required to complete the Phase II quasi-public use approval.
4. The requirements of 1-19-321(F)(6) (quasi-public use) shall be met at site plan review, namely, that the nature and intensity of the operations of the medical office must be in harmony with and consistent with, and shall not be more intense than the operations of the surrounding quasi-public, residential and commercial uses of the PUD.

Applicant Presentation:

Mr. Tom Natelli with Natelli Development representing the applicant presented the applicant's proposal. Mr. Natelli made a proffer that stated, "Final approval of the medical center quasi-public use shown on Lot 270 is subject to approval by State Highway (SHA) and Frederick County of the series of road improvements described in Alternative 4 of the attached memo to SHA dated February 10, 2006. If Alternative 4 is not approved by SHA and Frederick County, then the applicant shall return to the Planning Commission prior to site plan approval for re-evaluation of the medical center quasi-public use." (Proffer from applicant attached to minutes) Ms. Krista McGowan spoke in regards to the legality of this case.

Public Comment

Ms. Mary McQuillen resident of the Villages of Urbana. Ms. McQuillen and the residents of The Villages of Urbana and the Charles Ridge Community Group were opposed to this proposal due to the increased traffic issues. Ms. McQuillen stated that herself and the residents of Charles Ridge Community Group were in agreement with the proffer that was made by Mr. Natelli.

Rebuttal:

Mr. Natelli referred to Section 1-20-9A of the APFO regarding the change in density in developments with Phase II Plans. Mr. Natelli explained that they have an *amended* Phase II Plan that does not increase the intensity/density of use and the APFO test should not apply. Mr. Natelli also spoke of background enrollment numbers that were calculated before Centreville Elementary School was planned. This means that those numbers were calculated with only one elementary school in Urbana.

(Break at 11:15 a.m. to discuss the two motions before the vote.)

(Resumed at 11:25 a.m.)

Decision: Ms. McIntyre made a motion to approve the Phase II Plan to include Boxwood and change to the original PUD area based upon Section 1-20-9(A) in accordance with the following conditions: 1) that this property was incorporated into the original PUD at Phase I rezoning 2) it is contiguous to the original PUD; 3) utilizes previously APFO approved units; 4) is valid for the remainder of the original APFO approval; 5) no increase in density of the original PUD; 6) comply with miscellaneous drafting comments. 2nd by Mr. Brown.

Yea 7 Nay 0

In regards to the Foreman Section within the Villages of Urbana Ms. McIntyre made a motion for conditional approval in accordance with the staff recommendations and accepting the proffer made by Natelli Corporation. 2nd by Mr. Brown.

Yea 7 Nay 0

5. FINAL PLATS

Westview South, Final Plat, Lots #100 & 104. - Requesting approval for a re-subdivision. (Originally FcPc-approved as 5 lots with the preliminary plat consolidating the lots into 1 lot by FcPc-approved site plan). Zoned: MXD on the border of the Frederick/Adamstown Planning Regions. Located in the Northwest quadrant of MD Rt. 85 and Executive Way. Tax Map 86/Parcel 3. File #: S-905 Hansen #: 4430 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

(Mr. Cady Left)

Staff Findings/Recommendations:

The Staff finds, in accordance with the discussions in this report, plus the recommended conditions listed below, that the final plat application meets or will meet all requirements of Subdivision, Zoning, APFO and FRO Ordinance requirements. If the Planning Commission chooses to approve this application, the Staff recommends that the following conditions be added to the approval:

1. Comply with Agency comments from:
State Highway
DUSWM
Engineering Section
Planning Section
Health Department
2. Provide evidence that parking for bank is contained within Lot 104 or provide cross-easements with Lot 100.

Applicant Presentation:

Mr. Bob Dalrymple with Linowes and Blocher representing the applicant presented the applicant's proposal.

Public Comment

N/A

Decision: Mr. Brown made a motion to grant conditional approval in accordance with the staff recommendations. 2nd by Mr. White.

Yea 6 Nay 0 (Cady Absent)

6. PRELIMINARY/FINAL PLATS

Elizabeth M. Schmidt Subdivision – Requesting approval for 3 new lots in a major subdivision and a modification of Section 1-16-219(C)(2) of the Subdivision Regulations, located on the northeast side of Wigville Rd, west of Fox Tower Rd. Zoned: (RC) Resource Conservation, Middletown Planning Region. Tax Map 24/Parcel 88 File #S-1086; Hansen # 4018 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

(Mr. Cady Returned)

Staff Findings/Recommendation:

Findings:

Based upon the discussions in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO, and FRO requirements. Staff has no objection to conditional approval of the plan.

Recommendation:

Should the FcPc approve this Application (S1086, AP 4018) for the proposed new lots in a Major Subdivision, and grant the panhandle modification per section 1-16-219(C)(2) of the Subdivision Regulations, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all staff and agency comments.
2. The Applicant shall add a note to the plat stating FcPc approval and date.
3. The Applicant shall meet the requirements of the FRO prior to plat recordation.

Applicant Presentation:

No Applicant Present

Public Comment

N/A

Decision: Mr. Brown made a motion to grant conditional approval in accordance with the staff recommendations and to grant the panhandle modification. 2nd by Mr. Crum.

Yea 7 Nay 0

(Mr. Brown Left to Recuse himself)

7. AGRICULTURAL CLUSTER PLANS

Kepler Farms (Continued from November 9, 2005) – Requesting Agricultural Cluster Concept Plan approval, major subdivision approval, and a modification of Section 1-16-219(C)(2) of the Subdivision Regulations, located on Hollow Rd., approximately 5,000 ft north of Old National Pike. Zoned: (AG) Agricultural, Middletown Planning Region. Tax Map 65/Parcel 13 File # S-1027; Hansen # 3847 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based upon the discussions in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO, and FRO requirements. Staff has no objection to conditional approval of the plan.

Recommendation:

Should the FcPc approve this Application (S712, AP 4352) for the proposed new lot in a Major Subdivision, and grant the panhandle modification per section 1-16-219(C)(2) of the Subdivision Regulations, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all staff and agency comments.
2. The Applicant shall add a note to the plat stating FcPc approval and date.
3. The Applicant shall meet the requirements of the FRO prior to plat recordation.

Applicant Presentation:

Ms. Krista McGowan with Miles & Stockbridge representing the applicant, Mr. Greg Trexler presented the applicant's proposal. Mr. Trexler gave his reasoning for his request.

Public Comment

N/A

Rebuttal:

Ms. McGowan spoke regarding the development rights letter (letter attached to the minutes) the applicant previously received from the Planning Department that stated this property would yield three Ag Cluster Rights dependent upon Planning Commission approval.

Decision: Ms. Hines made a motion for conditional approval based upon the letter received from the Health Department regarding perc's and a previous letter that the applicant received by the Planning Department stating they had Ag Cluster Rights. This approval is in accordance to the condition of complying with all staff and agency comments. 2nd by Mr. Crum.

Yea 5 Nay 1 (White Opposed)(Brown Recused)

(Mr. Brown Returned)

8. **MISCELLANEOUS REQUESTS**

Stanford Industrial Park Section 2, Lot 25 – Requesting approval for a modification of Section 1-16-219(C)(2) of the Subdivision Regulations to allow a panhandle lot in a major subdivision, located on the north side of Cornell Place, east of Winchester Blvd. Zoned: (LI) Limited Industrial, Adamstown Planning Region. Tax Map 94/Parcels 96 and 89 File # S-690; Hansen # 4506 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

If the FcPc finds that the existing topography along Winchester Blvd is a topographical constraint to the construction of an access point, and the creation of a panhandle to Cornell Place meets the “excellence of design” criteria per Section 1-16-219 (C)(2) of the Subdivision Regulations, then the application meets all Zoning, Subdivision, APFO, and FRO requirements.

Recommendation:

Should the FcPc approve the modification per Section 1-16-219(C)(2) of the Subdivision Regulations, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments.
2. The Applicant shall add a note to the plat stating FcPc approval of the panhandle modification, with date.
3. The Applicant shall revise note #6 on the Addition Plat to read “Access for Lots 25 and 11 shall be reviewed independently by Frederick County at the time of Site Plan review.”
4. The Applicant shall add the remaining area of Lot 10 to Lot 11, as shown on the attached “Correction/Addition Plat” exhibit.
5. The Applicant shall note on the plat that access to Winchester Blvd is denied.

Applicant Presentation:

Mr. Chris Smariga with Harris, Smariga & Associates representing the applicant, Jim Fitzgerald presented the applicant's proposal.

Public Comment:

N/A

Decision: Mr. White made a motion to grant conditional approval in accordance with the staff recommendations. 2nd by Ms. McIntyre.

Yea 7 Nay 0

(Lunch Break at 12:30 p.m.)

(Resumed at 1:30 p.m.)

(Mr. Crum and Mr. Cady Absent)

Canal Run Lot Recordation Schedule - Requesting approval for a modification to extend 2005 Lot Recordation Schedule by 6 Months. Zoned: PUD in the Adamstown Planning Region. Located on Ballenger Creek Pike at Rt. 464 In Point of Rocks Tax Map 102/Parcel 23 File #: S-412E Hansen #: 4501 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

According to question #4 in the County Attorney's Memo released in April 2005, the Planning Commission has the authority to modify the APFO Lot-Recordation Schedule, as long as the schedule does not extend past the termination date for APFO approval. Given the complications of this project in general, and the change in SHA off-site mitigations, the Staff presents no objection to the Applicant's request for a six-month extension of 2005 APFO-Year lot-recordation schedule.

Applicant Presentation:

Mr. Andy Mackintosh with PVI, LLC representing the applicant presented the applicant's proposal.

Public Comment:

N/A

Decision: Mr. Brown made a motion to grant the extension of the recordation schedule as requested. 2nd by Ms. McIntyre.

Yea 5 Nay 0 (Crum & Cady Absent)

Village of Urbana- Classic Communities Corp. - Requesting approval for a modification for the Garage setbacks of 3 single-family units. Zoned: PUD in the Urbana Planning Region. Located in the Village Center Area of the Urbana PUD Tax Map 96/Parcel 222 File #: SP 03-22 Hansen #: 4496 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

The Staff finds that the Applicant's request for a modified setback for single family lots are within the purview of the Planning commission to approve, as per Section 1-19-321 of the Zoning Ordinance. If the Planning Commission chooses to approve this application, the Staff recommends that the following condition be added to the approval:

1. Comply with Fire Marshal comments.

Applicant Presentation:

Mr. Mark Friis with Rodgers Consulting representing the applicant presented the applicant's proposal.

Public Comment:

N/A

Decision: Ms. McIntyre made a motion for conditional approval to grant the side-yard modification and to comply with the Fire Marshal's comments. 2nd by Ms. Hines.

Yea 5 Nay 0 (Crum & Cady Absent)

9. SITE PLANS

McDonald's - Requesting Site Plan approval for a 3,878 sq. ft. restaurant located in the west quadrant of MD Rt. 355 and MD Rt. 80 intersection. Zoned: Village Center (VC), Urbana Planning Region. Tax Map 96 /Parcel 63. File#:SP-00-18A Hansen #: 4328 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

(Mr. Cady Arrived)

Staff Findings/Recommendations:

The Staff finds, in accordance with the discussions in this report, plus the recommended conditions listed below, that the site plan application meets or will meet all requirements of Subdivision, Zoning, APFO and FRO Ordinance requirements. If the Planning Commission chooses to approve this application, the Staff recommends that the following conditions be added to the approval:

1. Provide the following data on Sheet 5 "Lighting":
 - a. Pole height.
 - b. Demonstration of lateral and upward glare shields.
 - c. Reduced lighting during non-business nighttime hours.
2. Resolve Engineering and Planning concerns regarding the exit design.
3. Comply with miscellaneous Agency requests from:
Fire Marshal
DUSWM
Transportation Engineering

Mr. O'Philips stated that he would be adding Historic Preservation to recommendation #3 as a miscellaneous agency.

Applicant Presentation:

Mr. Tom Natelli with Natelli Communities representing the applicant presented the applicant's proposal. Mr. John Ideburger with McDonalds spoke of the architecture of the building. Mr. Steve Petersen with Street Traffic Studies spoke about the traffic flows within the site.

Public Comment:

Mr. Kevin Dolan owner of Landon House which is located adjacent to McDonalds. Mr. Dolan was opposed to the site for McDonalds due to the historic value of the land it was to be built on and also for the traffic issues.

Rebuttal:

Mr. Natelli spoke in regards to the historic value of the site, explaining the work they have gone through to get this far to make sure that if there was historic value on this property that it would be preserved. Mr. Natelli stated that the standards have been met for the traffic. Mr. Natelli furthermore asked for a short continuance due to the email received today from the Urbana Civic Association.

Decision: Ms. McIntyre made a motion for up to a 30-day continuance with the intention that this case is rescheduled for the next Wednesday, March 15, 2006 Planning Commission Meeting as an item on the evening agenda. 2nd by Mr. White.

Yea 5 Nay 1 (Hines Opposed)(Crum Absent)

Hedgeapple Farms – Requesting Site Plan approval for a 1,200 sq. ft .roadside stand, located on the east side of MD 85, north of Michaels Mill Rd. Zoned: (AG) Agricultural, Adamstown Planning Region. Tax Map 95/Parcel 6 File # SP06-03; Hansen # 4321 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

(Ms. McIntyre Left)

Staff Findings/Recommendations:

Findings: Based upon the discussions in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO, and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendations:

Should the FcPc approve this Site Plan (SP06-03, AP 4321) for the proposed 1,200 sq ft roadside stand, Staff recommends that the following items be added as conditions to the approval:

1. Applicant shall continue to address all agency comments through the completion of this project.
2. Prior to site plan final approval and signature, Forest documents must be approved. Prior to grading or building permit application, forests requirements must be mitigated via purchase of forest banking credits or fee-in-lieu.
3. Show one 12'x50' loading space in addition the currently proposed loading space that could be constructed in the future, if operations require. Revise the proposed van-size loading area as shown on the Site Plan so it does not overlap with handicap access. Provide dimensions for the proposed loading space.
4. The existing panhandle to Lot 2 must be relocated. An Addition Plat must be submitted to the County for review, approval, and recordation pursuant to the Zoning Ordinance and the Subdivision Regulations prior to Site Plan signature and approval.
5. Remove existing driveway between the proposed structure and the northern residential entrance to eliminate the use of the residential entrance for commercial traffic.
6. Provide some trees and shrubs to screen the parking area from Rt 85.

Mr. Wilkins stated that he would like to add a 7th recommendation due to information received this morning regarding the site being under a Maryland Environmental Trust Easement. Mr. Wilkins added number 7 to read: The

applicant shall contact the Maryland Environmental Trust and confirm their approval of this project prior to site plan signature and final approval.

Applicant Presentation:

Mr. Scott Bario, executive director of The Jorgensen Family Foundation representing the Jorgensen Family farm presented the applicant's proposal. Mr. Bill Brennan with B&R Design Group spoke on the layout of the plan.

Public Comment:

N/A

Decision: Mr. Brown made a motion to grant condition approval subject to the staff recommendations, adding to #1 that the applicant show the dumpsters and show a relocated parking space; delete #3; amend #5 to read a gate be constructed across the driveway in the vicinity of the building; adding a 7th condition to read the concerns of Maryland Environmental Trust be addressed by the applicant; also adding an 8th condition that there be no third party delivery's to the site. 2nd by Ms. McIntyre.

Yea 6 Nay 0 (Crum Absent)

(Break at 3:25 p.m.)

(Resumed at 3:30 p.m)

Wedgewood - Wellington - Requesting Site Plan Approval for a 170,940 sq. ft. Office/Warehouse building (153,846 sq. ft. Warehouse and 17,094 sq. ft. Office) on 10.01 acres, located on the south corner of the intersection of New Design Road and English Muffin Way. Zoned: Limited Industrial (LI), Adamstown Planning Region, Tax Map 86 Parcel 1, File#: SP-05-15 Hansen#: 3692 (Justin Horman)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based on the discussion in this report and with the conditions listed below, Staff find that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendations:

Should the Planning Commission conditionally approve this Site Plan (SP-05-15, AP 3692) for the proposed 170,940 sq.ft. Office/Warehouse building (153,846 sq.ft. Warehouse and 17,094 sq.ft. Office). Staff recommends that the following items be added as conditions of approval:

1. The applicant shall record the final plat and note the Liber and Folio on the site plan prior to site plan signature.
2. Planning Commission for the proposed entrances to the site.
3. The applicant shall execute a Letter of Understanding and pay their pro rata share of all needed transportation improvements into the escrow account for road improvements prior to final site plan approval and signature.
4. The applicant shall provide the fee-in-lieu payment prior to site plan signature approval.
5. Address all agency comments as the plan proceeds through completion.

Applicant Presentation:

Mr. Rand Weinberg with Weinberg & Miller representing the applicant, The Matan Companies presented the applicant's proposal. Ms. Stephanie Dmucke with Harms & Associates spoke in regards to the utility easement on the property.

Public Comment:

N/A

Decision: Mr. Brown made a motion to grant conditional approval in accordance with the staff recommendations amending #2 to read Planning Commission grant the modification to the entrance onto English Muffin Way as shown on the plat. 2nd by Mr. White.

Yea 6 Nay 0 (Crum Absent)

Audubon Terrace North Section 3 - Requesting Site Plan approval to allow a height of 35 feet per Section 1-19-321(c)(3) for 50 previously approved town home units located on 10.73 acres, situated on the northwest corner of the intersection of Eaglehead Drive and Audubon Way within Eaglehead on the Lake (Lake Linganore) PUD. Zoned: Planned Unit Development (PUD) New Market Planning Region. Tax Map: 69 Parcel 21, File #: SP-86-04 Hansen #: 4448 (Justin Horman)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based on the discussion in this report and, and with the conditions listed below, the Staff finds the application meets or will meet all applicable Zoning, Subdivision, APFO and FRO requirements, with the exception of the 35 feet height request for the 50-townhouse units in Section 3.

The applicant has requested a 35 feet height modification per Section 1-19-321(C)(3) of the County's Zoning Ordinance regulations. The Frederick County Planning Commission does have the authority to determine height limitations for structures over three (3) Stories, or thirty (30) feet in a PUD per Section 1-19-321(C)(3) of the County's Zoning Ordinance regulations.

Staff concurs with and supports the applicant's modification request justification due to flexibility allowed under the Planned Unit Development zoning district, which encourages a variety of housing types. The applicant has identified the specific architectural elements for the 50 town home units. The architectural elements have been submitted to and reviewed by staff.

Staff has no objection to conditional approval of the site plan.

Recommendation:

Should the Frederick County Planning Commission support the approval of the height modification request in accordance with Section 1-19-321(c)(3) of the Zoning Ordinance to allow for a height of 35 feet for the 50 townhouse units in Audubon Terrace North Section 3, Staff recommends that the following items be added as conditions of approval:

1. Applicant shall continue to address the Memorandum of Understanding conditions.
2. Applicant shall comply with all Staff and agency comments throughout the completion of the project.
3. Applicant shall provide a note on the plan regarding the FcPc approval of the height modification request to allow a height of 35 feet for the 50 townhouse units in Section 3 and correct all relevant existing notes to reflect this approval.
4. The applicant shall revise Note 6, which references developer agreements to reference the fact that APFO is not required due to the MOU dated June 28, 2005 between Land Stewards and Frederick County regarding APFO-approved lot transfers.

Applicant Presentation:

Ms. Krista McGowan with Miles & Stockbridge representing the applicant, Land Stewards, LLC presented the applicant's proposal.

Public Comment:

N/A

Decision: Mr. Brown made a motion to grant conditional approval in accordance with the staff recommendations. 2nd by Mr. White.

Yea 6 Nay 0 (Crum Absent)

Penske - Requesting Site Plan approval for a Change of Use from a Heating and Air Conditioning Contractors Office to an Automotive Rental facility on .33 acres, located On the West side of Route 85, approximately 400 feet north of the Grove Road intersection, Zoned: General Commercial (GC), Frederick Planning Region, Tax Map 77, Parcel 96, File # SP-90-30, Hansen # 4226. (Justin Horman)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendation:

Should the Planning Commission conditionally approve this Site Plan (SP-90-30, AP 4226) for the proposed change in use from a Heating and Air Conditioning contractors office to a Automotive Rental facility, Staff recommends that the following items be added as conditions of approval:

1. Applicant shall enter into a joint use and access agreement prior to signature of the Site Plan
2. Applicant shall submit a photometric chart
3. Applicant shall comply with all staff and agency comments as the plan proceeds through completion.
4. Applicant shall comply with State Highway Administration letter dated January 25, 2006.
5. Continue to work with staff to address the radius at the entrance.
6. Revise notation 22 to state that the site is subject to FRO but due to the Limit of Disturbance is impervious surface, the total requirement is 0 square feet.

Mr. Depo added a statement to recommendation #2, this recommendation will now read: Applicant shall submit a photometric chart to comply with the .5 ft. candles at the peripheral of the site.

Applicant Presentation:

Mr. Scott Miller with Weinberg & Miller representing the applicant, Mark O'Kolo, LLC presented the applicant's proposal. Mr. Graham Hubbard with Harris, Smariga & Associates spoke on the design of the entrance.

Public Comment:

Mr. Terre Rhoderick with Loiederman Soltesz & Associates representing, Mr. Gary Leisteen the adjacent property owner. Mr. Roderick stated they were willing to enter into negotiations of a joint access agreement. Mr. Roderick explained that they would like to have one joint access for an entrance point instead of two separate ones. Mr. Roderick also stated that they have a meeting scheduled with the applicant to discuss the best place for the entrance.

Decision: Ms. McIntyre made a motion to grant conditional in accordance with staff recommendations; deleting recommendation 1; amending #2 to read the applicant shall submit a photometric chart showing that the lighting shall not exceed 0.5 foot candles at the peripheral of the site; amending #4 to read the applicant shall comply with SHA conditions; and deleting recommendation #5. 2nd by Mr. White.

Yea 6 Nay 0 (Crum Absent)

Adjourned at 4:55 p.m.

Respectfully Submitted,

Alan E. Duke; Chairman